

## Are You Aware of EPA's New Enforcement Policy? If Not...Learn about High Priority Violations (HPV)

SBCA-HPV-0300

### ***What is HPV?***

HPV stands for High Priority Violations. This federal policy was designed so environmental enforcement actions remain consistent amongst the states.

### ***What Does HPV Mean to Me?***

Prior to October 1, 1999, EPA and the states used a "Significant Violator Policy" to outline how they would work together to enforce the Clean Air Act requirements. If you received a Notice of Violation (NOV) letter from the Wisconsin Department of Natural Resources (DNR), you were probably placed on the Significant Violator (SV) list kept by DNR and EPA. Under the old SV policy, it was unclear what types of violations warranted a Notice of Violation letter. It was also unclear as to whom the SV policy was geared towards. (It was supposed to target larger sources, but this wasn't always the case.)

To clear up some of the confusion, EPA created a policy with very specific criteria to spell out the situations that would be considered a High Priority Violation (HPV). The HPV policy went into effect for Wisconsin on October 1, 1999. The HPV policy specifically states what sources are targeted. This new policy applies to:

- Major sources (see sidebar);
- Synthetic minor sources violating the condition that makes it minor; and
- Chronic violations at a source.

There are several ways a smaller business may be affected by the HPV policy. Can you answer yes to any of the following questions?

### ***Do you know if you are a major source?***

Any source that has the potential to emit more than 100 tons per year of any of these six pollutants is a major source.

- VOCs - Volatile Organic Compounds
- NOX - Nitrogen Oxide
- SO<sub>2</sub> - Sulfur Dioxide
- CO - Carbon Monoxide
- PM<sub>10</sub> - Particulate Matter

A source in the nonattainment area\* is major if it has the potential to emit 25 tons of VOC per year. A source is also considered major if it emits 10 tons or more of any single hazardous air pollutant (HAP) or 25 tons per year of any combinations of HAPS.

\*In Wisconsin, the nonattainment area for ozone includes: Kenosha, Racine, Milwaukee, Washington, Ozaukee, Washington, Sheboygan, Manitowoc and Kewaunee counties.

### **1. Did you get a construction permit for your last expansion project?**

Each expansion at an existing facility or construction of a new facility requires an air pollution construction permit from the DNR.

There are certain exemption levels that eliminate the need for a construction permit for smaller projects. Check to

see if your latest projects received or should have received a construction permit. There is a fact sheet available from the Small Business Clean Air Assistance Program (SBCAAP) to help you determine if you require a construction permit.

## 2. Are you affected by a MACT standard?

The Maximum Achievable Control Technology (MACT) standards are a set of federal regulations directed at controlling a list of 188 hazardous air pollutants (HAPs) from specific source categories. EPA has published a list of the 174 source categories they intend to write MACT standards for according to the Clean Air Act. MACT standards are based on the best-demonstrated control technology or practices within the regulated industry. Basically, this means that if your industry or activities are covered by a MACT Standard you will need to control your emissions to match the top 12% best controlled sources in your industry.

Most MACT standards affect facilities that are considered major sources, but a few of the MACT standards affect smaller businesses. Examples of some minor sources affected by MACT standards are dry cleaners, anyone using halogenated degreasing solvents, and chromium electroplaters. If you do not know about the MACT standards, there are factsheets on the different MACTs affecting small businesses available from the SBCAAP. Violating certain conditions of a MACT standard may trigger a HPV.

MACT conditions usually include:

- Initial Notification Requirements
- Emissions Limitations
- Work Practice Standards
- Initial Performance Test

- Record keeping and Reporting
- Notification of Compliance Status
- Ongoing Monitoring

## 3. Did you fail to submit an air permit application?

All existing major sources and synthetic minor sources were required to submit an air pollution operation permit application in 1994-1995. If you could be considered a major source and did not submit an application, you should submit one as soon as possible. The SBCAAP can help you get started on completing an application.

## 4. If you have an air permit, have you violated any of its restrictions?

If you have a synthetic minor operation permit and have violated any of the conditions that would affect your synthetic minor status, that may be considered an HPV. A major source with an operation permit would have a number of the conditions that might be considered a HPV if they are violated. For example, one general condition in Part II of your operation permit is that you must submit a Risk Management Plan according to s. 112(r), Clean Air Act, if it is applicable. If you did not submit such a plan and were supposed to, that would be a HPV. EPA has a good **Question and Answer** fact sheet that can explain which violations of permit conditions would be an HPV.

Wisconsin DNR will carry out the new HPV policy. While the HPV criteria does take away some of the uncertainty found under the former Significant Violator policy, it also takes away some of the DNR's enforcement discretion. Under the new policy, if an HPV is found at your facility, EPA will be expecting penalties (money!) for each violation.



## **Contacts for More Information or Assistance.**

The Small Business Clean Air Assistance Program helps smaller businesses understand and comply with the Clean Air Act regulations. Contact one of the program's Clean Air Specialists for more assistance: Renée Lesjak Bashel at 608/264-6153 or Tom Coogan at 608/267-9214.

For further information on the HPV policy contact your DNR Regional or Service Center office shown on the **DNR Contact Fact Sheet** or the DNR's Central office at 608/266-9767.